IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

RONALD BARNES	§	
v.	§	CIVIL ACTION NO. 6:14cv284
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Petitioner Ronald Barnes, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 challenging the legality of prison disciplinary action taken against him. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings and records, the Magistrate Judge issued a Report recommending that the petition be dismissed because Barnes did not show the infringement of any constitutionally protected liberty interests. Sandin v. Connor, 115 S.Ct. 2293, 2301 (1995). Barnes also raised issues which sounded in civil rights rather than habeas corpus, including allegations of excessive force and deliberate indifference to medical needs, and the Magistrate Judge recommended that these claims be severed into a separate civil rights lawsuit. *See* Emmett v. Thaler, 379 Fed.Appx. 321, 2010 WL 2008464 (5th Cir., May 19, 2010), *citing* Eason v. Thaler, 14 F.3d 8, 9 (5th Cir. 1994); Birl v. Thaler, 470 Fed.Appx. 362, 2012 WL 1578921 (5th Cir., May 7, 2012).

Barnes did not file objections to the Report of the Magistrate Judge; instead, he filed a response asking that his petition be dismissed without prejudice. He also asked that his non-habeas claims not be severed into a separate lawsuit, but that these claims be dismissed without prejudice as well.

The Court has reviewed the pleadings and the Report of the Magistrate Judge and has

determined that this Report is correct. Nonetheless, Barnes' request for voluntary dismissal should

be granted. See Carter v. United States, 547 F.2d 258, 259 (5th Cir. 1977); Thomas v. Phillips, 83

Fed.Appx. 661, 2003 WL 22965565 (5th Cir., December 17, 2003) (citing Carter). It is accordingly

ORDERED that the Petitioner's request to dismiss his habeas corpus petition, contained

within his response to the Magistrate Judge's Report (docket no. 7) is hereby **GRANTED**. It is

further

ORDERED that the above-styled civil action is DISMISSED WITHOUT PREJUDICE

on the request of the Petitioner. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby

DENIED.

It is SO ORDERED.

SIGNED this 27th day of June, 2014.

MICHAEL H. SCHNEIDER

UNITED STATES DISTRICT JUDGE

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